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**Congress of the United States**  
**House of Representatives**  
Washington, DC 20515-3301

September 24, 2003

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Bryant L. VanBrakle  
Secretary  
Federal Maritime Commission  
800 North Capitol Street, NW  
Washington, DC 20573

Dear Commissioners:

I write in support of a petition filed with the Federal Maritime Commission by UPS for an exemption from the prohibition on Non-Vessel Operating Common Carriers (NVOCCs) from entering into confidential contracts with their customers.

I represent one of the poorest regions in the United States. Please be aware that UPS is an employer in my Congressional District.

As you may know, during consideration of the *Ocean Shipping Reform Act (OSRA)* revisions of 1998, Congress considered all aspects of the ocean shipping industry including the role of NVOCCs. Based on the nature of ocean shipping at the time, Congress determined that NVOCCs should be regulated differently than vessel operators. In the late 1990s, most NVOCCS were small enterprises that neither owned ocean vessels nor the cargo being shipped. In order to protect shippers and to guarantee liability coverage, Congress determined that NVOCCs should operate under a published tariff system when dealing with their customers.

UPS operates a sophisticated, integrated, intermodal transportation network worldwide, which includes air, rail, surface and NVOCC transportation, and is deemed a "carrier" in the surface and air freight industries. Furthermore, UPS makes significant annual capital investments to its' asset-based transportation infrastructure. These facts set UPS apart from the companies that first raised concerns about the regulatory status of NVOCCs.

Because of changes in the industry, and at UPS in particular, these regulations represent a competitive disadvantage for UPS. I urge your positive consideration of the aforementioned petition to provide UPS with a level field of competition. Please inform my office when a decision is reached in the UPS case.

Sincerely,



Frank W. Ballance, Jr.  
Member of Congress

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